

1                   **LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**  
2           **ODAWA GAMING ENTERPRISE MANAGEMENT, INC. CORPORATE CHARTER**  
3

4           This Corporation is hereby organized, incorporated and granted its corporate powers,  
5 privileges and immunities under the laws of the Little Traverse Bay Bands of Odawa Indians,  
6 (Tribe) as a Tribally chartered corporation for the purposes set forth in Article II. The Little  
7 Traverse Bay Bands of Odawa Tribal Council grants this corporate charter pursuant to its  
8 inherent sovereign authority through enactment of Odawa Gaming Enterprise Management,  
9 Statute, WOS \_\_\_\_\_ and pursuant to Part Two of Comprehensive Business Codes of  
10 the Little Traverse Bay Bands of Odawa Indians, WOTC 12.114, *et seq.* This Charter creates a  
11 Tribal Corporation as defined at WOTC 12.116(B) as a corporation wholly owned by the Little  
12 Traverse Bay Bands of Odawa Indians for the benefit of the Tribe and its members, and its  
13 ownership is inalienable.  
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16                   **ARTICLE I: NAME and PRINCIPAL PLACE OF BUSINESS**  
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18           By this Charter, the Tribe creates the Odawa Gaming Enterprise Management, Inc. (the  
19 Corporation). The Corporation shall have its principal place of business at the Odawa Casino  
20 Resort, 1760 Lears Road, Petoskey, Michigan, or at such other location within the Tribe's  
21 territories that the Board of Directors of the Corporation shall determine.

22                   **ARTICLE II: OWNERSHIP**

23           The Corporation shall be 100% owned and controlled by the Little Traverse Bay Bands  
24 of Odawa Indians, (Tribe).  
25  
26

27                   **ARTICLE III: PURPOSES**  
28

29           The Corporation is organized for the purpose of developing, constructing, owning,  
30 leasing, operating, managing, maintaining, promoting and financing the Odawa Casino Resort  
31 and engaging in any other lawful activity, subject to any limitations imposed by the Odawa

1 Gaming Enterprise Management Statute, any contract, indenture or other instrument by which  
2 the Corporation is bound. The Tribe intends that the Corporation shall assume all obligations,  
3 responsibilities and duties of the Tribe under gaming law existing at the date of enactment of this  
4 Charter, with the sole exception of the power of gaming regulation, gaming licensing and  
5 enforcement of applicable law, which powers are reserved to the Tribe.  
6  
7

#### 8 **ARTICLE IV: DEFINITIONS**

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10 For purposes of this Charter the following terms shall have the meanings respectively specified:  
11

- 12 a. “Board of Directors” shall mean the Board of Directors of the Corporation created by  
13 this Charter.  
14
- 15 b. “Compact” shall mean the “Tribal-State Gaming Compact between The Little Traverse  
16 Bay Bands of Odawa Indians and the State of Michigan.”  
17
- 18 c. “Corporation” shall mean the Odawa Gaming Enterprise Management, Inc., created by  
19 this Charter.  
20
- 21 d. “Felony” shall mean only those offenses set forth under Tribal Statute or the United  
22 States Indian Major Crimes Act (18 U.S.C. § 1153).  
23
- 24 e. “*Gaming Commercial Enterprises*” means any existing and future establishment of the  
25 Tribe (i) upon which Gaming takes place, (ii) which is authorized and licensed under  
26 applicable law, and (iii) which the Council designates for ownership, lease, development,  
27 construction, operation or management by the Company, including without limitation any  
28 Class III Gaming facilities established in accordance with the Compact including the  
29 Odawa Casino Resort and ancillary enterprises and activities and other tribally owned  
30 enterprises or businesses.  
31
- 32 f. “*Gaming Regulatory Commission*” means the Little Traverse Bay Bands of Odawa  
33 Indians Gaming Regulatory Commission established pursuant to Waganakising Odawak  
34 Statute 2005-06, May 15, 2005.

- 1
- 2 g. *“Indian Gaming Regulatory Act”* means 25 U.S.C. §§ 2701-2721.
- 3
- 4 h. *“Obligations”* shall mean any notes, bonds, interim certificates, debentures or other
- 5 evidences of indebtedness issued by the Corporation under this Charter.
- 6
- 7 i. *“Obligee”* shall mean any holder of an Obligation, and any agent or trustee for any
- 8 holder of any Obligation.
- 9
- 10 j. *“Odawa Casino Resort”* means the gaming enterprise, including related hotel and
- 11 restaurant services, of the Tribe located in Petoskey, Michigan, wherein the Tribe
- 12 operates Class II and Class III gaming to generate governmental revenue for the Tribe
- 13 pursuant to the Indian Gaming Regulatory Act.
- 14
- 15 k. *“Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians”* means
- 16 *“areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the*
- 17 *boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I,*
- 18 *paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.”* Little Traverse Bay
- 19 Bands Constitution, Article V(A)(1)(a).
- 20
- 21 l. *“Tribe”* or *“LTBB”* means the Little Traverse Bay Bands of Odawa Indians.
- 22
- 23 m. *“Tribal Constitution”* means the Little Traverse Bay Bands of Odawa Indians
- 24 Constitution as adopted by its membership on February 2, 2005.
- 25
- 26 n. *“Tribe Council”* means the elected body of nine Tribal members of Little Traverse Bay
- 27 Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. *“Tribal*
- 28 *Council”*.
- 29

## 30 **ARTICLE V: RELATION TO TRIBE**

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32 The Corporation shall constitute a governmental instrumentality of the Tribe, having

33 autonomous existence separate and distinct from the Tribe.

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1 a. For purposes of civil jurisdiction, regulatory jurisdiction and taxation, the  
2 Corporation shall be deemed a subordinate arm of the Tribe and shall be entitled  
3 to all of the privileges and immunities of the Tribe.  
4

5 b. The Corporation shall have no power to exercise any regulatory or legislative  
6 power; the Tribe reserves from the Corporation all regulatory, legislative and  
7 other governmental power, including, but not limited to the power to grant, issue,  
8 revoke, suspend or deny licenses, conduct background investigations, and enact  
9 legislation regulating Gaming on the territories of the Tribe.  
10

## 11 **ARTICLE VI: ASSETS**

12 The Corporation shall have only those assets of the Tribe formally assigned or leased to  
13 it by the Tribal Council, together with whatever assets it acquires by other means as provided in  
14 this Charter. No activity of the Corporation, or any indebtedness incurred by it shall encumber,  
15 implicate or in any way involve assets of the Tribe or another Tribal Entity not assigned or  
16 leased in writing to the Corporation.  
17  
18

## 19 **ARTICLE VII: BOARD OF DIRECTORS**

20 The management of the affairs of the Corporation shall be vested in a Board of Directors,  
21 except as otherwise provided in this Charter or in the bylaws of the Corporation. The Board of  
22 Directors shall be comprised of at least three (3) and no more than five (5) members appointed  
23 by a majority vote of the Tribal Council. The Tribal Council sets the following minimal  
24 requirements for appointment:  
25  
26  
27  
28

- 29 a.  
30 b.  
31 c.  
32 d.  
33 e.  
34  
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## ARTICLE VIII: CORPORATE POWERS

The Corporation shall have the power to:

- a. To purchase, receive, solicit, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, and otherwise deal in personal property of every description, or any interest therein, wherever situated.
- b. To lease real property and improvements from the Little Traverse Bay Bands of Odawa Indians, with prior approval of the Tribal Council.
- c. To make contracts or agreements, incur liabilities and borrow money from any source, upon such terms and rates and interests as the Corporation may determine; to issue notes, bonds and other obligations and secure any of its obligations by specifically mortgaging, pledging or assigning its corporate property or income as collateral for its corporate debts or liabilities, with prior approval of the Tribal Council.
- d. To lend or invest money for its corporate purposes.
- e. To conduct its affairs, carry on its operations, and exercise the powers granted under this Corporate Charter in any state, territory, district, or possession of the United States or in any foreign country.
- f. To elect or appoint officers and agents of the Corporation and define their duties and fix their compensation.
- g. To sue and be sued but only in accordance with Article IX of this Charter.
- h. To have and exercise all powers incidental, necessary or convenient to the conduct of corporate business, not inconsistent with applicable law, and to engage in any and all activities which will directly or indirectly carry out the purposes of the Corporation as set forth in Article III.

## ARTICLE IX: SOVEREIGN IMMUNITY

- a. The Corporation is a distinct legal entity from the Little Traverse Bay Bands of Odawa Indians with its own assets. While the Tribe is the sole owner, the Corporation's corporate activities, transactions, obligations, liabilities and property are not those of the Tribe. Nothing in this charter waives or permits the Corporation to waive the Tribe's sovereign immunity from suit.
- b. The Corporation may effectuate limited waivers of its sovereign immunity for conducting day-to-day business if the waivers are made in accordance with either of the following methods:
  1. Tribal Council may expressly authorize a limited waiver of sovereign immunity on a case-by-case basis through a specific resolution.
  2. The Corporation may waive its sovereign immunity pursuant to transactions or agreements that the Corporation may execute in the course of its ordinary business affairs.
  3. Any waivers of sovereign immunity made pursuant to (1) or (2) above shall only expose the assets owned or held by the Corporation and shall not subject other Tribal assets to liability. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Corporation. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Corporation subject thereto. Neither the power to sue and be sued provided in this Charter, nor any express waiver of sovereign immunity by resolution of the Corporation's Board of Directors or the Tribal Council shall be deemed a consent to the levy of any judgment, lien or attachment upon any property of the Corporation other than property specifically pledged or assigned, or any property of the Tribe, or a consent to suit with respect to any land within the exterior boundaries of the Reservation or consent to the attachment or encumbrance of any such land.

- 1
- 2 c. Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a
- 3 federally recognized Indian tribe with respect to the existence of the Corporation
- 4 are hereby expressly reserved, including sovereign immunity from suit in any
- 5 state, federal or tribal court. Nothing in this Charter shall be deemed or construed
- 6 to be a waiver of sovereign immunity from suit of the Tribe or to be a consent of
- 7 the Tribe to the jurisdiction of the United States or of any state with regard to the
- 8 business affairs of the Corporation or the Tribe or any cause of action, case or
- 9 controversy.
- 10
- 11

12 **ARTICLE X: MANAGEMENT OF CORPORATION**

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14 The Board of Directors is empowered and directed to adopt bylaws consistent with this

15 Charter and all applicable law to set out management of the Corporation and its activities.

16

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18 **ARTICLE XI: INSULATION FROM SHIFTS IN TRIBAL POLITICS**

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- 20 a. Member(s) of the Board of Directors appointed under Article VII shall serve a
- 21 three (3) or five (5) year term. However, a Board member can only be
- 22 involuntarily removed during their term for one or more of the following reasons:
- 23
- 24 1. The Board member(s) intentionally or negligently took action to harm the
- 25 interests of the Corporation or Tribe;
- 26
- 27 2. The Board member(s) is convicted on any crime that could harm the
- 28 credibility or function of the Corporation;
- 29
- 30 3. The Board member(s) is convicted of a felony;
- 31
- 32 3. The Board member(s) failed to act in good faith, or with the care that an
- 33 ordinarily prudent person in a like position would exercise under similar
- 34 circumstances, or in a manner he or she reasonably believes to be in the

1 best interests of the Corporation.

- 2
- 3 b. Removal of a Board member(s) for one or more of the reasons set out in
- 4 subsection (a) above can only be accomplished by an affirmative vote of three-
- 5 fourths ( $\frac{3}{4}$ ) or more of the Tribal Council members eligible to vote.
- 6
- 7 c. Any changes to this charter by Tribal Council shall only be adopted upon the
- 8 affirmative vote of three-fourths ( $\frac{3}{4}$ ) or more of those Tribal Council members
- 9 eligible to vote.

10

11

12 **ARTICLE XII: ATTORNEYS**

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14 The Corporation may utilize services of an attorney or attorney(s) as provided for by the

15 Odawa Gaming Enterprise Management, Statute, or such other attorneys as approved by Tribal

16 Council.

17

18

19 **ARTICLE XIII: DURATION and DISSOLUTION**

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21 The Corporation shall continue in perpetuity unless and until dissolved upon adoption of

22 a resolution requiring dissolution by an affirmative vote of three-fourths ( $\frac{3}{4}$ ) or more of the

23 Tribal Council members eligible to vote. No such resolution shall take effect before the

24 expiration of 90 days from the date of adoption. Upon dissolution of this Corporation, its assets

25 shall be distributed at the direction of the Tribal Council, or its designee, as follows:

26

- 27 (a) Any property held upon an express condition requiring its return, transfer or other
- 28 disposition shall be distributed accordingly;
- 29
- 30 (b) Any property or assets required to be distributed or transferred in any manner
- 31 according to federal law shall be distributed or transferred accordingly;
- 32
- 33 (c) Claims of creditors of the Corporation approved by the Tribal Council shall be
- 34 paid accordingly from the assets or funds of the Corporation; and



- 1  
2 (d) Remaining assets shall be transferred to another Corporation, to the Tribe, or  
3 distributed or transferred as the Tribal Council directs.  
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#### 6 **ARTICLE XIV: REGISTERED AGENT**

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8 The Registered Agent of the Corporation is:

9  
10 Name: Legislative Office Manager  
11 Address: Little Traverse Bay Bands Odawa Indians  
12 7500 Odawa Circle  
13 Harbor Springs, MI 49740  
14

15 Provided, the Board of Directors may change the Registered Agent by taking official action and  
16 notifying Tribal Council and the Department of Commerce of the change.  
17

#### 18 **ARTICLE XV: DISTRIBUTIONS TO TRIBAL GOVERNMENT**

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21 The Board of Directors shall distribute funds in accordance with any bond agreements or  
22 other such agreements and shall distribute any additional funds annually with fair and reasonable  
23 profits to the Tribal government beyond the amount required to maintain adequate funds in the  
24 Corporation for debt service, and maintenance and growth of business operations. The  
25 Corporation shall have no power to issue any shares of stocks to declare and pay any dividends.  
26  
27

#### 28 **ARTICLE XVI: REPORTING AND AUDIT REQUIREMENTS**

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30 The Corporation shall provide reports to Tribal Council as required by Odawa Gaming  
31 Enterprise Management Statute.  
32

33 The Corporation shall obtain an annual financial audit by an independent public  
34 accountant, the results of which will be provided to Tribal Council within 120 days of the end of  
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Legislative Calendar

1 its fiscal year.

2  
3 The Corporation shall keep correct and complete books and records of account and shall  
4 keep minutes of its meetings. All books and records of the Corporation, except for sensitive  
5 proprietary information, may be inspected by any LTBB citizen at the location where the records  
6 are normally kept at any reasonable time.

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9 **ARTICLE XVII. POLITICAL ACTIVITY**

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11 The Corporation, and its officer, agents and employees when acting on behalf of the  
12 Corporation, shall not contribute to or otherwise support or assist any political party or candidate  
13 for Tribal or any other public office.

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15  
16 ***Certificate of Adoption***

17  
18 As Tribal Secretary and Legislative Leader, we certify that this Charter was formally  
19 adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians on

20 \_\_\_\_\_.

21  
22 Date: \_\_\_\_\_

23  
24 Date: \_\_\_\_\_